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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

In re K.B., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

K.B.,

Defendant and Appellant.

A155779

(San Francisco County
Super. Ct. No. JW-18-6074)

Appellant K.B. appeals following a jurisdictional admission and the juvenile court's subsequent dispositional order. Appellant's counsel has raised no issue on appeal and asks this court for an independent review of the record to determine whether there are any arguable issues. (*Anders v. California* (1967) 386 U.S. 738; *People v. Wende* (1979) 25 Cal.3d 436.) Appellate counsel advised appellant of his right to file a supplementary brief to bring to this court's attention any issue he believes deserves review. (*People v. Kelly* (2006) 40 Cal.4th 106.) Appellant has not filed such a brief. We have reviewed the entire record, find no arguable issues, and affirm.

BACKGROUND

In March 2018, a Welfare and Institutions Code section 602, subdivision (a)¹ petition was filed charging appellant, then 17 years old, with felony vandalism (Pen. Code, § 594, subd. (b)(1)) and misdemeanor battery (*id.*, § 242). According to the probation report, the victim told police he was attacked by multiple juveniles at a mall but he apparently did not identify Minor as one of them. The victim followed the juveniles out of the mall and was taking pictures of them on his phone when Minor slapped the phone out of his hand, causing the glass to shatter. The victim kept following the group and grabbed Minor to prevent him from escaping. The group of juveniles then began attacking the victim again. Minor told police and probation officers that he did not participate in the fight at the mall, but he did slap the victim's phone from his hand because Minor did not think the victim had the right to film him. Minor also said when the victim grabbed Minor, Minor defended himself.

Minor filed a motion to dismiss the petition (§ 782) or, in the alternative, for informal supervision (§ 654). The juvenile court denied the motions.

In July 2018, an amended petition was filed charging appellant with two counts of felony assault with force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)), one of which alleged the personal infliction of great bodily injury (*id.*, § 12022.7, subd. (a)); one count of felony vandalism (*id.*, § 594, subd. (b)(1)) and one count of misdemeanor battery (*id.*, § 242). Minor filed a motion to reconsider informal supervision, which the juvenile court again denied.

In September, Minor admitted one count of felony assault by means likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)). The great bodily injury allegation was stricken and the remaining counts were dismissed.

The disposition report recommended Minor be placed on wardship probation at home under the probation officer's supervision. Minor filed a motion for nonwardship probation (§ 725, subd. (a)). Minor argued that even though Minor was statutorily

¹ All undesignated section references are to the Welfare and Institutions Code.

ineligible, the juvenile court should find nonwardship probation warranted in the interests of justice. In the alternative, Minor argued the juvenile court should declare the assault a misdemeanor and therefore render Minor statutorily eligible for nonwardship probation.

At disposition, the juvenile court denied Minor's motion for nonwardship probation, finding Minor "is not legally eligible for it." The court declared Minor a ward and placed him on probation at home under the supervision of the probation officer. The court imposed probation conditions and ordered victim restitution in an amount to be determined. A review hearing was set for six months, and the court stated it would consider early dismissal if Minor "continue[s] to do as well as you ha[ve] been doing."

DISCUSSION

We have reviewed the record and found no arguable appellate issues.

Minor was represented by legal counsel throughout the proceedings and there is no indication in the record that counsel was ineffective. The juvenile court advised Minor of the consequences of his admission. There is no indication in the record that his admission was not knowing and voluntary.

The juvenile court properly denied Minor's nonwardship probation motion. Section 725, subdivision (a), authorizes nonwardship probation where the juvenile found the minor "commi[tte]d . . . an offense other than any of the offenses set forth in Section 654.3" The plain language of the statute does not permit an exception in the interests of justice. Section 654.3 includes the commission of "a felony offense when the minor was at least 14 years of age." (§ 654.3, subd. (h).) Penal Code section 245, subdivision (d), is a wobbler offense but, based on the record as a whole, the juvenile court exercised its discretion to declare it a felony. (§ 702 ["If the minor is found to have committed an offense which would in the case of an adult be punishable alternatively as a felony or a misdemeanor, the court shall declare the offense to be a misdemeanor or felony."]; *In re Manzy W.* (1997) 14 Cal.4th 1199, 1209 [if "the juvenile court fails to make a formal declaration under . . . section 702 . . . [t]he key issue is whether the record as a whole establishes that the juvenile court was aware of its discretion to treat the offense as a misdemeanor"].)

The probation conditions imposed are reasonable and not an abuse of discretion.

DISPOSITION

The judgment is affirmed.

SIMONS, Acting P.J.

We concur.

NEEDHAM, J.

BURNS, J.

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